IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.607 OF 2006

Anna Appa Bhilawade ...Appellant

vs.

Bapu Bala Tapase
(since deceased through L.Rs.)
Suwarna Bapu Tapase & Ors. ...Respondents

Mr.Pratap Patil for the Appellant
Mr.L.M.Acharya for Respondent Nos.2 and 3.

CORAM: A.S.OKA,J.
DATE : JULY 17, 2007.

P.C.:

1. Heard Advocates for the parties. Second Appeal is admitted on the following substantial questions of law :

i) Whether the Appellate Court committed an error by setting aside the decree passed by the trial court even after holding that the original defendant Nos.2 and 3 have caused obstruction to the Appellant in cultivation of the suit lands which were of the ownership of the Appellant ?

ii) Whether the Appellate Court could have set aside the decree passed by the trial court only on the ground that the relief of mandatory injunction is discretionary ?

iii) Whether the exercise of discretion by the Appellate

Court is perverse in as much as it is accepted by both the courts below that the second and third Defendants unlawfully and illegally erected the poles and installed transformers in the suit land ?

2. Printing is dispensed with. The Appellant is directed to file private paper book within a period of one year from today failing which Appeal will stand dismissed for non prosecution without further reference to the court.

JUDGE